Selected April 6 2026 Hearing Transcript Pages

Precision Locating, LLC and Arvig Enterprises, Inc. v. Martin D. Starkebaum

Minnesota District Court, Seventh Judicial District, Otter Tail County

Court file 56-CV-25-198
Document index 230

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Selected pages from the April 6, 2026 proceeding captioned Scheduling Conference and filed as Index 230 on October 27, 2026.

This PDF contains this added cover followed by the selected original pages. It is an excerpt, not the complete filing. The selected pages retain their original page contents, dimensions, and printed page numbers.

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MR. ERICKSON: Judge, do you want everyone -- you want the Plaintiffs to go all at once and then the Defendants? I think if you were to look at the Court's docket, you would see that they're interspersed.

THE COURT: Yeah, that's what I was just looking to see what kind of order they came in.

(Brief pause in the proceedings.)

THE COURT: Mr. Erickson, why don't we just take yours --

MR. ERICKSON: Okay.

THE COURT: -- and then I'll come back over to you, Mr. Ella. And then we'll just kind of work through them that way.

And I understand, as far as the punitive damages one, I -- my intent here, I think, is, you know, I want it put together with the motion if you're going to be adding information. I'm going to put out a different deadline for any punitive motion because I don't want to hear that today, unless you put it together with all the information that you've argued and has been recently discovered or whatever you want -- whatever term you want to call it. I want that put together so it's one packet, so it gets --

MR. ERICKSON: It's one memo.

THE COURT: Yes.

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MR. ERICKSON: And got it. Okay.

So we'll hold back on the motion for punitive damages, understanding that the Court is going to reschedule for that. We've already talked about the letter in which the Defendant lied to the Court with regard to text messages that were irrelevant, and, in fact, are very relevant. We've talked about confidentiality --

MR. ELLA: Your Honor, wha-- is he addressing a motion?

THE COURT: Yeah, let's, let's get on the specific motion, Mr. Erickson.

MR. ERICKSON: Yeah, so that's why I'm getting there, Judge. The next motion is the motion, the omnibus motion in limine.

(Brief pause in the proceedings.)

MR. ERICKSON: Motion in limine number one deals with the Court should preclude testimony related to the sealed minor conviction or testimony regarding any type of minor conviction regarding Derek Schmidt. This document was filed, Judge, on December 4 at 2:42 p.m. So I'm not sure what the index number is regarding the omnibus motion, but that's when it was filed.

We point out, I think, in great detail that no criminal conviction, no public conviction, has ever been

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maybe it can, but we would reserve the right to call Ms. Skepper as to the scope of work that Precision does as compared to the scope of work that Eagle Eye does.

And I just want to follow up, so Mr. Erickson said as to damages on breach of contract, we have the 10-99s. I'm like, what? The 10-99s, if anything, I guess, go to the duty of loyalty. They have no damages on the breach of contract. And they -- they haven't articulated any. They didn't even respond, substantively, to the argument. But hopefully, we'll get to that today, if we have time.

MR. ERICKSON: My counsel is going to deal with that on your motion to determine damages, which is a motion for dismissal in disguise and in direct conflict with what you agreed to withdraw.

THE COURT: Okay. We'll -- we'll deal with that, but the number six, just looking at that. That was related -- talked about the Facebook post and other information, which I think when -- with the supplemental -- sorry, now I'm -- the declaration. The second declaration contains --

MR. ERICKSON: Mr. Mayen.

THE COURT: -- Yep. Contains new information regarding that. That's why I would like that one addressed with the new information attached so the Court has it together. So if there is one, for -- for just for

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me, and then two, for if there's any appeal or anything else, that someone taking a look at it isn't trying to reference multiple documents and information from different dates. That it would all be together. So that's my intention there, Mr. Ella. With that.

So anything further, Mr. Ella? -- In response to the motion in limine here?

MR. ELLA: I don't think so, Your Honor.

THE COURT: All right.

Let me go back.

(Brief pause in the proceedings.)

MR. ELLA: Well, I'll just say with regard to the minor, you know, I think there is a hearsay exception for -- for what's it called? Effect on the -- on the witness. In other words, if the question was, Why did you think he was creepy? And she says, well, I've heard this stuff and this stuff; I think it comes in as effect on the listener.

MR. ERICKSON: Judge, I need to respond to that.

THE COURT: You may.

MR. ERICKSON: It's being offered for the truth of the matter asserted. The effect on the witness is peripheral with regard to the truthfulness of the witness as to what she experienced. What she actually

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THE COURT: -- list as I'm --

MR. ERICKSON: Got it.

THE COURT: -- I'm scrolling. So.

All right. Mr. Ella, let's first start with just because I'm going to take it in order for my index numbers, excluding expert witness testimony.

MR. ELLA: Yeah, this one's pretty simple. The Court decides the law; doesn't need an expert on the law. I had one of these motions in my career, earlier on. Marshall Tanick's a nice guy, but the Court doesn't need an attorney to come in -- I'm just trying to find the motion, give me a moment here.

(Brief pause in the proceedings.)

MR. ELLA: Number twelve.

So I'm trying to remember what he was going to testify to, but you know, one thing is that he's -- okay. Here we go.

That they're defamatory per se. No, I don't know. Mr. Erickson says that we've already conceded that if they're defamatory they relate to trade or professions, so. And then what? He's going to testify that pedophilia is a crime?

I mean, we don't need him for that. And you know, I think we will have a discussion at some point, or I should say, we may, about the difference between the

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crime of pedophilia, being convicted for pedophilia, and just the sort of psychological condition of being a pedophile, which seems to be a real topic of discussion in today's society. And military desertion is a crime. I mean, not only is it improper to have a lawyer testify as to the law, it seems completely unnecessary.

MR. ERICKSON: Judge, I don't know --

THE COURT: And, and --

MR. ERICKSON: -- if you're done yet, Mr. Ella?

THE COURT: Yeah, let me ask.

Mr. Ella, is that -- are you done on that issue?

MR. ELLA: I think so, Your Honor.

THE COURT: All right. Mr. Erickson.

MR. ERICKSON: Judge, this provides the answer with regard to how the court, how the jury, should evaluate damages. What Mr. Tanick does is, he explains both in terms of community involvement and development of the law with regard to pedophilia. How the Court -- excuse me, how the jury ought to evaluate the damages component with regard to this. I agree with Mr. Ella that defamation per se has been established. And the issue is who said it with regard to this. That's, that's the only issue with regard to this. I agree with that. But we need somebody to explain the impact of ten thousand cable-vining groups nationwide getting, or over

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And then also just to reiterate something that Mr. Erickson said earlier, is that in Mr. Starkebaum's request for admissions --

MR. ERICKSON: Responses.

MR. ABRESS: -- Excuse me, his responses to our request for admission, he admitted that if the statements at issue in this case are false, then they are defamation per se. So I don't know what argument there is left over that these are subject to any kind of privilege because he admitted that they were per se defamatory.

Moving on to the -- I'll take them one at a time whether this is subject to absolute privilege as a matter of public concern or subject to a qualified privilege. Now, something that's completely absent from the Defendant's briefing on this issue is that the intent of the speaker is of paramount importance in determining whether or not something is a matter of public concern. That's stressed by the *Freborg* case, which is cited by Defendants, and that's stressed by the United States Supreme Court in the *Snyder v. Phelps* case, which involved the Westboro Baptist Church. It involved the Westboro Baptist Church protesting outside of the funerals of soldiers.

Now, one of the things the Supreme Court stressed in that case was that there was no pre-existing relationship

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THE COURT: Well, we've been at this for about an hour and forty-five minutes. We're going to take about a ten-minute break. We'll come back, finish up what we've got left after that. We're going to recess until about 10:55. Thank you.

MR. ELLA: Thanks, Your Honor.

(A recess is taken.)

THE COURT: All right. We'll go back on the record with all parties back.

I'm going through, kind of, my register here. It looked like the next issue, which is the punitive damages, which we're going to -- we'll be putting out a scheduling order for that. So that was the next one. We're not going to address that request here today. Then we get to verdict forms and such. That's something we'll deal with at a later date, obviously, too.

MR. ERICKSON: It might just be the motion on E.S.

THE COURT: I'm looking for --

MR. ERICKSON: I think it's Defendant's motion for leave for trial witness to appear by video.

THE COURT: Oh. All right. That's where I was getting up to. That's when you said E.S., I wasn't -- I was looking for --

MR. ERICKSON: Yeah. I was going with the

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that are due to get her here. We'd indicated, not only in the stipulation, but otherwise, that witnesses are going to be sequestered so there's no chance that Matt Guthmiller is going to be in the courtroom at the same time that E.S. is in the courtroom. So I think those are all things that are important with regard to this.

THE COURT: The Court will have to make a ruling on that. So I will take a look at everything there.

We took care of the confidentiality. So is that, I mean, I have a better term, I mean, those are the issues we're here, you've argued all the issues everybody was anticipating? Mr. Erickson?

Obviously, like I said, I'm going to put out another order to address timelines for things and other, other motions and such, that are -- I'd request it to be amended to include any new argument on the information recently --

MR. ERICKSON: From the Rule 16 letter.

THE COURT: All right. So, Mr. Erickson, anything further that you expected to argue here today?

MR. ERICKSON: No. The only other thing I would say is this: I understand that we're going to amend the schedule for adding additional argument with regard

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to punitive damages, and also with regard to motion six in the limi-- in limine. And if I've got the number wrong, it is the motion involving the declaration involving Christopher Mayen.

THE COURT: All right. And I do have that as number six.

And if the Court -- if I have further questions, you know, I'll do what I did in that last one. I'm going to ask, if I have something that comes up as I'm wading through a lot of information and I need clarity; the Court will, under my purview, ask those questions.

So Mr. Ella, was there anything further that you were expecting to address here today that we haven't?

MR. ELLA: If there's gonna be a new scheduling order and further briefing, I would like to brief the motion to dismiss based on the settlement. I mean, because it's a new fact, we would not have been able to do that previously, and we haven't had a chance to brief it to date. I think it disposes of the tort claim, and I'll just reiterate, I would like the Plaintiffs to articulate to the Court how -- what damages they're seeking for breach of contract. It's not been explained in the briefing. I didn't hear it today. And I think it's incumbent on the Plaintiffs to be able to articulate their theory to the Court so that we can plan for that.